

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff

VS.

CASE NUMBER: 3:06CR205-MEF

HENRY ERIK YAPIAS,
Defendant.

MOTION TO CONTINUE

COMES now, the Defendant, HENRY ERIK YAPIAS, by and through CJA Panel Attorney SYDNEY ALBERT SMITH, files herein a motion to continue this matter from trial now set for Monday, November 27, 2006, and cites as grounds therefore as follows:

1. Counsel was contacted on this date by the Office of the Federal Defenders and requested to and did accept an appointment as counsel for the Defendant.
2. Counsel was advised that the matter had gone before the Court for a change of plea, however, a conflict of interest was discovered before said plea was entered and previous counsel, Jennifer Hart of the Federal Defenders Office was required to withdraw.
3. Counsel was advised by the office of the Honorable Magistrate Judge Charles Coody contemporaneously with receiving basic documents from the Federal Defenders Office in this case that the matter was set for trial on November 27, 2006, and that a motion to continue should be filed.
4. Counsel has a sentencing in State v. Oscar Roy Doster, Covington County, on November 22, 2006. The Office of counsel is planned to be closed on Thursday and Friday, November 23 and 24.
5. Counsel has a previously set professional obligation in Mobile, Alabama on Monday, November 27, 2006, and previously set criminal proceedings in the Circuit Court of Coffee County,

Enterprise Division on Wednesday, November 29, 2006.

6. Counsel understands that the only reason the plea of guilty did not go forth was a lately discovered conflict by counsel with the Federal Defenders Office, not necessarily the way the counsel was conducting the representation. If such is the case, the plea should go forth as soon as the undersigned counsel can see the defendant who counsel is advised is incarcerated in the Montgomery City Jail. Counsel intends to see the Defenant on Tuesday, November 28, 2006.

PREMSIE considered, this Honorable Court is requested to continue the trial setting of this case from the November 27, 2006, term of court.

Respectfully submitted this the 21st day of November, 2006.

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing with the Clerk of the Court using the CM/ECF sydtem which will send notifications of such filing to the following:

Chris Snyder, Assistant Unites States Attorney
Jennifer A. Hart, Federal Defenders Middle District of Alabama.

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